

CALIFORNIA STATE PERSONNEL BOARD MEETING
Marina del Rey Hotel
13534 Bali Way
Marina del Rey, California 90292
(310) 301-1000

Public & Closed Session Location - Marina Room

TWO-DAY BOARD MEETING - OCTOBER 5-6, 1999

FULL BOARD MEETING MINUTES

OCTOBER 5, 1999

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

1. ROLL CALL

BOARD MEMBERS PRESENT:

Florence Bos, President
Ron Alvarado, Vice President
Richard Carpenter, Member
William Elkins, Member
Sean Harrigan, Member

2. REPORT OF THE EXECUTIVE OFFICER - Walter Vaughn

The Board was advised of the following:

- A. Governor Davis has named the remaining members of the Diversity Task Force. Maria Contreras-Sweet, Secretary, Business Transportation and Housing Agency, will chair the Task Force. There are 26 members of the Task Force including State Personnel Board member Bill Elkins.
- B. The International Personnel Management Association conference is scheduled for the week of October 17, 1999. The Executive Officer will attend the conference.

3. REPORT OF THE CHIEF COUNSEL - Elise Rose

The Chief Counsel reported on the following:

- A. Connerly v. SPB - Real Party in Interest has requested an extension to file its reply brief.
- B. ACSA v. DPA - A hearing on the matter was conducted on September 24, 1999. The judge indicated he would render his decision before the 90-day deadline of December 23, 1999.
- C. Jesse Brown: A petition for writ of mandate has been filed concerning this Board precedential decision.
- D. A very successful mediation seminar was conducted by the State Personnel Board on September 22, 1999, with 75 attendees. The response was very positive, and a new mediation training session for volunteer mediators is scheduled for November 1-5, 1999.

4. NEW BUSINESS

A. CONTRACTORS' STATE LICENSE BOARD HEARING REQUEST

ACTION: Received a letter concerning an issue at the Contractors' State License Board and a request for a meeting. A subcommittee was formed (Carpenter and Elkins) to research the issues and report back to the Board in November.

5. REPORT ON LEGISLATION - Judy Balmain

The Board was advised of the following:

- A. Friday, October 10, 1999 is final day for the Governor to act on legislation.
- B. Legislative agenda for the year 2000 will be presented to the Board for discussion in closed session at the October 6, 1999 Planning Session
- C. The Legislative summary for 1999 will be completed for distribution on October 19, 1999.

6. PERS UPDATE - Ron Alvarado

Mr. Alvarado reported on the following:

A. The new Benefit Equity Program for the state employees.

7. ORAL ARGUMENT

Oral argument in the matter of ALBERT ESCAMILLA, Case No. 98-4378. Appeal from dismissal. Department of Corrections

Persons Participating:

Wendell T. Llopis, Attorney at Law, representing appellant
Nathan Schmidt, Staff Counsel, Department of Corrections,
representing Department

ACTION: Submitted

8. ORAL ARGUMENT

Oral argument in the matter of IGNACIO SALAZAR, Case No. 98-1560. Appeal from dismissal. Department of Corrections.

Persons Participating:

Catherine Kennedy, Attorney at Law, representing appellant
Cynthis Rodriquez, Attorney at Law, California Department of
Corrections, representing Department

ACTION: Submitted

BOARD ACTIONS

9. STATE PERSONNEL BOARD SUMMARY MINUTES OF SEPTEMBER 21, 1999

ACTION: Adopted on October 5, 1999.

VOTE: Bos, Alvarado, Carpenter, Elkins, Harrigan - Aye.

10. ACTION ON SUBMITTED ITEMS

ACTION: (See pages 12-14)

11. ADMINISTRATIVE LAW JUDGE CASES

On October 5, 1999, the Board adopted the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Bos, Alvarado, Carpenter, Elkins, Harrigan - Aye.
The exceptions are Proposed Decisions for: Thomas Benson, #99-1386, Elkins and Harrigan - Nay; and Homer Ford, #99-2106, Harrigan - Nay.

REJECTED DECISION

THERESA LUCARELLI, CASE NO. 98-5149
Appeal from 60 calendar days suspension
Department of Corrections
ACTION: Submitted

COURT REMAND DECISIONS

BRUCE FARRIS, CASE NO. 39261
Appeal from dismissal
Department of Corrections
ACTION: In accordance with the Superior Court order of August 31, 1999, a return shall be filed with the court setting forth clarifications of the Board's April 6, 1999 decision.

ROBERT ZAMBRANA, CASE NO. 97-1810
Appeal from dismissal
Department of Corrections
ACTION: On October 5, 1999, Board adopted the Chief Counsel resolution; THEREFORE, BE IT RESOLVED that the Board cannot confirm that the document submitted by the Department is the "police report" referred to in that portion of the hearing transcript submitted by the Department.

CHIEF COUNSEL RESOLUTION

PETER PERKINS, CASE NO. 98-2860
Appeal from demotion
Department of Corrections
ACTION: On October 5, 1999, Board adopted resolution remanding matter to Administrative Law Judge to amend decision.

ARTHUR MORONES, CASE NO. 99-0204
Appeal from dismissal

Department of Transportation
ACTION: On October 5, 1999, Board approved stipulated
settlement

PROPOSED DECISIONS

DENNIS LUNA, CASE NO. 99-2197
Appeal from medical demotion
Department of Transportation
ACTION: Demotion Sustained and Appeal Denied

BOOKER T. WRIGHT, CASE NO. 99-0079
Appeal from dismissal
Department of Consumer Affairs
ACTION: Dismissal Sustained

JEFFREY B. TIMMS, CASE NO. 98-3907
CHARLES E. BUTCHER, CASE NO. 98-3998
Appeals from 20-calendar days suspension
Department of Corrections
ACTION: Suspension for Timms Revoked and Suspension for
Butcher Sustained

ROBERT S. BRASWELL, CASE NO. 99-1923
Appeal from dismissal
Department of Motor Vehicles
ACTION: Dismissal Sustained

CAROLYN G. SHEPPARD, CASE NO. 99-2611
Appeal from 1-step reduction for 6 months
Department of Corrections
ACTION: Reduction in Salary Sustained

GREG GRUSZIEWICZ, CASE NO. 99-0834
Appeal from dismissal
Department of Developmental Services
ACTION: Administrative Law Judge's proposed decision
rejected by Board. Board to decide case itself.

DOUGLAS RALSTON, CASE NO. 99-0024
Appeal from 10 Calendar Days Suspension
Department of Corrections
ACTION: Suspension Revoked

KIMBERLY HASTIE, CASE NO. 99-1401
Appeal from dismissal

Department of Food and Agriculture

ACTION: Dismissal Modified to 90 Calendar Days Suspension

THOMAS BENSON, CASE NO. 99-1386

Appeal from dismissal

Department of Corrections

ACTION: Administrative Law Judge's proposed decision
rejected by Board. Board to decide case itself.

JAMES R. LEKSAN, CASE NO. 99-1242

Appeal from 60 days suspension

Department of Corrections

ACTION: Suspension Revoked

DONALD J. HERMANS, CASE NO. 99-1273

Appeal from 60 days suspension

Department of Corrections

ACTION: Suspension Sustained

HOMER B. "JOHN" FORD, CASE NO. 99-2106

Appeal from dismissal

Department of Housing and Community Development

ACTION: Dismissal Sustained

PETITION FOR REHEARING

RANDY HENDERSON, CASE NO. 97-1799

Appeal from dismissal

Department of the Youth Authority

ACTION: Petition for Rehearing Filed by Respondent Denied

12. RESOLUTION RE NOTICE OF GOVERNMENT CODE SECTION 18671.1
EXTENSION. (See pages 15-17)
13. MISCELLANEOUS APPEALS DIVISION CASES
(Discrimination Complaints, Withholds, Voided Appointments,
Rule 211 Appeals, Petitions for Rehearing)
On October 5, 1999, the Board adopted the following decisions
presented by Linda Brooks, Assistant Executive Officer,
California State Personnel Board.
VOTE: Bos, Alvarado, Carpenter, Elkins, Harrigan - Aye.

WITHHOLD CASES

- A. ALAN ANDERSON, Case No. 98-3789
Classification: Correctional Officer
ACTION: GRANTED
- B. FERNANDO MARTINEZ, Case No. 98-2561
Classification: Correctional Officer
ACTION: GRANTED
- C. MAURTIS T. ANDRE', Case No. 99-0606
Classification: Hospital Peace Officer I
ACTION: DENIED
- D. BELMONTE S. BAYANI; Case No. 99-1444
Classification: Correctional Officer
ACTION: DENIED
- E. BRYAN L. DAVIDSON, Case No. 99-0223
Classification: Correctional Officer
ACTION: DENIED
- F. STEPHANIE N. DEROOY, Case No. 99-0224
Classification: Motor Vehicle Field Representative
ACTION: DENIED
- G. DANIEL A. EVANS, Case No. 99-1083
Classification: Correctional Officer
ACTION: DENIED
- H. MICHELLE LYNN FANT, Case No. 99-0398
Classification: Hospital Peace Officer I
ACTION: DENIED
- I. CINDY FELIX, Case No. 99-0816
Classification: Key Data Operator
ACTION: DENIED
- J. JOSE MANUEL GONZALEZ Case No. 99-2182
Classification: Correctional Officer
ACTION: DENIED
- K. MARC T. GREEN, Case No. 99-0930
Classification: Youth Correctional Officer
ACTION: DENIED
- L. MELVIN JACKSON, Case No. 99-0505
Classification: Tax Program Technician
ACTION: DENIED

- M. KENDALL WAYNE KING, Case No. 99-0503
Classification: Correctional Officer
ACTION: DENIED
- N. NICOLE N. KIZER, Case No. 99-1091
Classification: Correctional Officer
ACTION: DENIED
- O. BRANDY LEE KRAFT, Case No. 99-0859
Classification: Correctional Officer
ACTION: DENIED
- P. SUSAN NORDSTROM, Case No. 99-0817
Classification: Correctional Officer
ACTION: DENIED
- Q. LEO DEGARIO ORTEGA, Case No. 99-0393
Classification: Correctional Officer
ACTION: DENIED
- R. JASON WARREN, Case No. 99-0815
Classification: Hospital Peace Officer I
ACTION: DENIED

14. MEDICAL APPEALS

On October 5, 1999, the Board adopted the following decisions presented by Linda Brooks, Assistant Executive Officer, California State Personnel Board.

VOTE: Bos, Alvarado, Carpenter, Elkins, Harrigan - Aye.

- * DANNETTE BLANKENSHIP, Case No. 99-2362
Classification: Correctional Officer
ACTION: DISMISSED
- * LUIS CORDOVA, Case No. 98-0051
Classification: Correctional Officer
ACTION: DISMISSED
- * ROBERT MCCARTY, Case No. 99-2623
Classification: Youth Correctional Officer
ACTION: DISMISSED

15. EXAMINATION APPEALS

On October 5, 1999, the Board adopted the following decisions presented by Linda Brooks, Assistant Executive Officer, California State Personnel Board.

VOTE: Bos, Alvarado, Carpenter, Elkins, Harrigan - Aye.

A. PAULETTE HOLLWAY Case No. 98-3218
 Final Filing Date: NO BULLETIN IN FOLDER
 Examination: NO BULLETIN IN FOLDER
 Class: Correctional Officer
 Testing Agency: Department of Corrections
 Appeal Received: August 17, 1998
 ACTION: DENIED

B. LEONARD MCLEOD, Case No. 98-1299
 Final Filing Date: NO BULLETIN IN FOLDER
 Examination: NO BULLETIN IN FOLDER
 Class: Correctional Lieutenant
 Testing Agency: Department of Corrections
 Appeal Received: April 14, 1998
 ACTION: DENIED

16. NON-HEARING CALENDAR

On October 5, 1999, the Board adopted item "A". This item was presented by Laura Aguilera, Chief, Personnel Resources and Innovation Division, California State Personnel Board.

VOTE: Bos, Alvarado, Carpenter, Elkins, Harrigan - Aye.

A. COUNSELOR, SCHOOL FOR THE BLIND SERIES
 COUNSELOR, SCHOOL FOR THE DEAF SERIES
 COUNSELOR
 ATTENDANT, RESIDENT SCHOOLS
 COUNSELOR, DEPARTMENT OF EDUCATION SPECIAL SCHOOLS
 COUNSELOR, SCHOOL FOR THE DEAF
 INSTRUCTIONAL COUNSELOR, DIAGNOSTIC SCHOOLS
 INSTRUCTIONAL COUNSELOR, SCHOOL FOR THE BLIND
 INSTRUCTIONAL COUNSELOR, SCHOOL FOR THE DEAF
 SUPERVISING INSTRUCTIONAL COUNSELOR, DIAGNOSTIC SCHOOLS
 SUPERVISING INSTRUCTIONAL COUNSELOR, SCHOOL FOR THE
 BLIND
 SUPERVISING INSTRUCTIONAL COUNSELOR, SCHOOL FOR THE DEAF
The California Department of Education proposes the establishment of two new class series each containing four new classes including the Counselor, School for the Blind series and the Counselor, School for the Deaf series; establishment of alternate range criteria for the Counselor class in each series; reallocation of incumbents from existing classes to the appropriate class in the new series; establishment of a twelve month probationary period for all classes in both series; and abolishment of the classes of Attendant, Resident

Schools; Counselor, Department of Education Special Schools; Counselor, School for the Deaf; Instructional Counselor, Diagnostic Schools; Instructional Counselor, School for the Blind; Instructional Counselor, School for the Deaf; Supervising Instructional Counselor, Diagnostic Schools; Supervising Instructional Counselor, School for the Blind; and Supervising Instructional Counselor, School for the Deaf.

17. STAFF CALENDAR ITEMS FOR BOARD INFORMATION

Staff has approved the following items:

- A. CERTIFIED NURSING ASSISTANT
The Department of Personnel Administration is proposing to revise Alternate Range Criteria 348 for the Certified Nursing Assistant to reflect that the incumbent is eligible for movement to Range B upon completion of one year of service as a Certified Nursing Assistant, Range A.
- B. SENIOR LEGAL TYPIST/SECRETARY
The Department of Personnel Administration is requesting that attachment B, of the Senior Legal Typist/Secretary Board item adopted by the State Personnel Board on May 5, 1999, Item A, be amended to include Air Resources Board.
- C. STATE PARK SUPERINTENDENT III
STATE PARK SUPERINTENDENT IV
STATE PARK SUPERINTENDENT V
The Department of Parks and Recreation is requesting the removal of footnote 24 for the classes of State Park Superintendent III, State Park Superintendent IV and State Park Superintendent V.
- D. CADET, CALIFORNIA HIGHWAY PATROL
The Department of California Highway Patrol proposes to revise the specification for Cadet, California Highway Patrol to delete the maximum height standard of 6'6" from special physical characteristics.
- E. ADAPTIVE DRIVER EVALUATION SPECIALIST, DEPARTMENT OF REHABILITATION
The Department of Rehabilitation is proposing specification revisions to the Adaptive Driver Evaluation Specialist, Department of Rehabilitation

classification. The proposal would delete the possession of a valid driving instructor license issued by the Department of Motor Vehicles from the minimum qualifications (MQ) and make minor working changes for clarification purposes to the definition, typical tasks, and MQ segments of the specification.

ACTION: Noted

A D J O U R N M E N T

SUBMITTED

1. ETHEL WARREN, CASE NO. 98-2130. Appeal from dismissal.
Department of Corrections. (Oral argument held June 8, 1999.)

ACTION: On October 5, 1999, adopted Board decision sustaining dismissal.*

VOTE: Bos, Alvarado, Carpenter, Elkins, Harrigan - Aye.

2. JOSEPH P. CARLSON, CASE NO. 98-3904. Appeal from dismissal.
Department of Mental Health. (Oral argument held July 7, 1999.)

ACTION: On October 5, 1999, adopted Board decision sustaining dismissal.

VOTE: Bos, Alvarado, Carpenter - Aye.
Elkins, Harrigan - No

3. RALPH REY, CASE NO. 98-2752. Appeal from dismissal.
Department of Mental Health. (Oral argument held August 3, 1999.)

NO ACTION

4. MICHAEL JACKSON, CASE NO. 98-1818. Appeal from dismissal.
Department of Youth Authority. (Oral argument held August 3, 1999.)

NO ACTION

*Adopted as Precedential Decision #99-09. [NOTE: Precedential Decisions of the State Personnel Board are published and available by subscription from Continuing Education of the Bar (CEB) in Berkeley. To subscribe, call CEB, toll free, at (800) 924-3924.]

5. MICHAEL CARL, CASE NO. 98-4549. Appeal from 4 days suspension. Department of Corrections. (Oral argument held August 3, 1999.)

NO ACTION

6. GREGORY PAPPAS, CASE NO. 98-1361. Appeal from dismissal. Department of California Highway Patrol. (Oral argument held September 8, 1999.)

ACTION: On October 5, 1999, adopted Board decision sustaining dismissal.

VOTE: Bos, Alvarado, Carpenter, Elkins, Harrigan - Aye.

7. JOHN W. CONES, CASE NO. 98-3003. Appeal from dismissal. Department of Corrections. (Oral argument held September 8, 1999.)

NO ACTION

8. PAMELA A. KING, CASE NO. 98-1586. Appeal from dismissal. Department of the Youth Authority. (Oral argument held September 8, 1999.)

NO ACTION

9. TERRY KNOX, CASE NO. 98-2862. Appeal from dismissal. Department of Corrections. (Oral argument held September 8, 1999.)

NO ACTION

10. PAUL CRUZ, CASE NO. 98-2663. Appeal from 1-step reduction in salary for six months and dismissal. Department of Corrections. (Oral argument held September 8, 1999.)

ACTION: On October 5, 1999, adopted Board decision sustaining reduction in salary and modifying dismissal to 15 working days suspension.

VOTE: Bos, Alvarado, Carpenter, Elkins, Harrigan - Aye.

11. JOHN D. YOUNG, CASE NO. 98-3996. Appeal from dismissal. Department of Industrial Relations. (Oral argument held September 8, 1999.)

ACTION: On October 5, 1999, adopted Board decision sustaining dismissal.

VOTE: Bos, Alvarado, Elkins, Harrigan - Aye.
Carpenter - Dissenting

NOTICE OF GOVERNMENT CODE § 18671.1 RESOLUTION

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional forty-five days, the Board hereby publishes its substantial reasons for the need for the forty-five day extension for some of the cases now pending before it for decision.

An additional forty-five days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than 6 months as of the date of the Board meeting.

GOVERNMENT CODE § 18671.1 RESOLUTION

WHEREAS, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

WHEREAS, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

WHEREAS, the Agenda for the instant Board meeting included an item titled "Notice of Government Code § 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

WHEREAS, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

* * * * *

I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting on October 5, 1999.

WALTER VAUGHN
Executive Officer
California State Personnel Board

CALIFORNIA STATE PERSONNEL BOARD MEETING
Marina del Rey Hotel
13534 Bali Way
Marina del Rey, California 90292
(310) 301-1000

Public & Closed Session Location - Marina Room

CONCURRENT BOARD MEETING MINUTES

OCTOBER 6, 1999

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

1. ROLL CALL

BOARD MEMBERS PRESENT:

Florence Bos, President
Ron Alvarado, Vice President
Richard Carpenter, Member
William Elkins, Member
Sean Harrigan, Member

2. PLANNING SESSION

ACTION: Planning Session held

A D J O U R N M E N T